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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,443	10/17/2003	Darwin Rambo	15097US01	1556
23446 7590 02/20/2008 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			EXAMINER LERNER, MARTIN	
			ART UNIT 2626	PAPER NUMBER
			MAIL DATE 02/20/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/688,443

**Applicant(s)**

RAMBO, DARWIN

**Examiner**

Martin Lerner

**Art Unit**

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 to 46 and 48 to 103 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1 to 46 and 48 to 103 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1 to 18, 66 to 71, and 89 to 94, drawn to a method of generating a parameter to identify a type of encoding of a voice data stream, wherein an absolute value is compared to a threshold, classified in class 375, subclass 287.
  - II. Claims 1 to 4, 19 to 21, 72 to 74, and 101 to 103, drawn to a method and system of generating a parameter to identify a type of encoding of a voice data stream, wherein a maximum value of all difference values is calculated between values of successive words of the voice data stream, classified in class 379, subclass 1.03.
  - III. Claims 1 to 4, 22 to 25, and 75 to 78, drawn to a method of generating a parameter to identify a type of encoding of a voice data stream, wherein a normalized sum of  $\mu$ -law zeros or overflows and A-law zeros or overflows are employed to calculate the parameter, classified in class 704, subclass 224.
  - IV. Claims 1 to 4, 26 to 36, and 79 to 88, drawn to a method of generating a parameter to identify a type of encoding of a voice data stream, wherein

one or more tests each comprise one or more conditions used to generate the parameter, classified in class 370, subclass 252.

V. Claims 1 to 4 and 37 to 51, drawn to a method of generating a parameter to identify a type of encoding of a voice data stream, wherein first through sixth numbers of words that correspond to first through sixth ranges of values are determined of  $\mu$ -law linear equivalents and A-law linear equivalents, classified in class 341, subclass 126.

VI. Claims 1 to 4, 52 to 65, and 95 to 100, drawn to a method of generating a parameter to identify a type of encoding of a voice data stream, wherein a type of encoding is based on a histogram generated using one or more words in the voice data stream, classified in class 702, subclass 57.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, Invention I has separate utility such as for comparing an absolute value to a threshold to determine whether a voice data stream is encoded by  $\mu$ -law or A-law. See MPEP § 806.05(d).

Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, Invention II has separate utility such as for

calculating maximum difference values to determine whether a voice data stream is encoded by  $\mu$ -law or A-law. See MPEP § 806.05(d).

Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, Invention III has separate utility such as for calculating zeros and overflows to determine whether a voice data stream is encoded by  $\mu$ -law or A-law. See MPEP § 806.05(d).

Inventions IV and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, Invention IV has separate utility such as for performing a plurality of tests to determine whether a voice data stream is encoded by  $\mu$ -law or A-law. See MPEP § 806.05(d).

Inventions V and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, Invention V has separate utility such as for a procedure that finds first through sixth numbers of words in first through sixth ranges corresponding to  $\mu$ -law equivalents or A-law equivalents to determine whether a voice data stream is encoded by  $\mu$ -law or A-law. See MPEP § 806.05(d).

Inventions I and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, Invention VI has separate utility such as for a procedure that generates a histogram to determine whether a voice data stream is encoded by  $\mu$ -law or A-law. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where Applicant elects a subcombination and claims thereto are subsequently found allowable, any claims depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

3. Claims 1 to 4 link inventions I to VI, and will be examined upon election of any of Invention I to VI. The restriction requirement among the linked inventions is subject to the nonallowance of the linking claims, claims 1 to 4. Upon the indication of allowability of the linking claims, the restriction requirement as to the linked inventions shall be withdrawn and any claims depending from or otherwise requiring all the limitations of the allowable linking claims will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104. Claims that require all the limitations of an allowable

linking claim will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, the allowable linking claim, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

4. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not

distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should Applicant traverse on the ground that the inventions or species are not patentably distinct, Applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin Lerner whose telephone number is (571) 272-7608. The examiner can normally be reached on 8:30 AM to 6:00 PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Hudspeth can be reached on (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

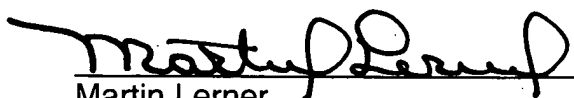


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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ML  
2/11/08

A handwritten signature in black ink, appearing to read "Martin Lerner", written over a horizontal line.

Martin Lerner  
Examiner  
Group Art Unit 2626